

REMARKS

Claims 1-27 are pending in this application. Claims 28-30 have been canceled. The independent claims are 1, 10, 15 and 22, and each of these has been amended.

In paragraph 1 of the Office Action, claims 1-30 were rejected under 35 USC 101 as being directed to non-statutory subject matter.

Each of independent claims 1, 10, 15 and 22 has been amended to recite that its steps are performed using at least one computer. Accordingly, these claims recited statutory subject matter.

Withdrawal of the rejection under 35 USC 101 of claims 1-27 is requested.

In paragraph 3 of the Office Action, claims 1-30 were rejected under 35 USC 102(e) as being anticipated by U.S. Patent No. 5,787,402 (Potter).

The claims of the present application are directed to a situation where an order is represented in multiple markets, each of the markets capable of executing the order and operating independently of each other. In this situation, a mechanism is required to ensure that at most one market executes the order.

As explained at pages 22-23 of the instant application (emphasis added):

An order can be represented in multiple markets without risk of multiple executions. Multiple executions are prevented via several mechanisms.

In one mechanism, control over an order is associated with a particular process, usually an order ELF but sometimes an order umpire in fast symbol mode, and another process trying to execute the order must first obtain permission from the controlling process before actually executing; this mechanism is referred to as a two-phase commit.

When an umpire declares itself to be in fast symbol mode, another umpire process can execute an order represented at the fast symbol umpire, only after the order is first cancelled from the fast symbol umpire.

In another mechanism, an order umpire can declare itself to be in-process, and then another order umpire that subsequently becomes in-process skips its own orders that it finds, via the respective order tails of the orders, to be in-process at umpires having an in-process start time preceding the in-process start time of the instant order umpire.

It is also possible for an individual order to be in-process at an umpire, although the umpire itself is not in-process.

When an umpire is in-process, an order represented at the in-process umpire cannot be cancelled.

When an order is in-process at an umpire, the in-process order cannot be cancelled.

Accordingly, an order ELF must manage its order so that the order is in-process at no more than one umpire.

The two-phase commit and in-process mechanisms are integrated in system 5.

Figs. 93A-93C show an example of representing an order in multiple markets, specifically, an umpire asking an order ELF for affirmation before pairing the ELF's order with a contra-side order, and an order ELF canceling its order from a second market after the order is paired in a first market. See also Tables 14-16.

Conventional trading systems assume that an order represented in their marketplace is immediately available for execution, that is, conventional trading systems permanently operate in fast symbol mode. Accordingly, with conventional systems, when a trader wishes to represent an order in multiple markets, the trader runs the risk of multiple executions. Some trading systems are aware of other markets and will route orders in their market to another market when the price is better; however, ***conventional markets adhere to the concept of control over the order being embedded in the order. In contrast, system 5 separates control over the order from where the order is represented.***

A "use case" for representing an order in multiple markets while preventing duplicate execution is set forth at pages 101-110 of the instant specification.

In contrast, Potter relates to a system wherein a user enters a foreign exchange order to a bank, and the system responds by either telling the user that the order has become executable (column 14, lines 21-24), or automatically executing the order (column 14, lines 30-37), depending on whether the order was or was not set for Autoexecution. Potter is unconcerned with representing an order in multiple markets.

More specifically, claim 1 of the present application calls for automatically, using at least one computer, representing an order in a first market and a second market, each of the first and second markets being able to execute the order and operating independently of each other, and automatically, using the least one computer, ensuring the order is executed in at most one of the first and second markets.

Potter fails to show or suggest a first market and a second market, each of the first and second markets being able to execute the order and operating independently of each other, and consequently fails to show or suggest the claimed steps of representing an order and ensuring the order is executed in at most one of the first and second markets.

Claim 10 calls for automatically, using at least one computer, sending the order to at least two markets, each of the at least two markets being able to execute the order and operating independently of each other, and automatically, using the least one computer, ensuring that execution authority for the order is in a single point.

Potter fails to show or suggest at least two markets, each being able to execute the order and operating independently of each other, and consequently fails to show or suggest the claimed steps of sending the order to at least two markets and ensuring that execution authority for the order is in a single point.

Claim 15 calls for automatically, using at least one computer, affirming availability of shares of the order to one of the at least two markets, each of the at least two markets being able to execute the order and operating independently of each other, and automatically, using the least one computer, receiving a pairing report from the one market for at least one of the affirmed shares.

Potter fails to show or suggest at least two markets, each being able to execute the order and operating independently of each other, and consequently fails to show or suggest the claimed steps of affirming availability and receiving a pairing report.

Claim 22 calls for automatically, using at least one computer, at a receiving market, receiving the order from a source, the order capable of being represented in at least two markets that operate independently of each other and are each able to execute the order, automatically, using the least one computer, determining whether the receiving market has authority to execute the order, and automatically, using the least one computer, executing the order after the receiving market has determined that it has authority to execute the order.

Potter fails to show or suggest at least two markets, each being able to execute the order and operating independently of each other, and consequently fails to show or suggest the claimed steps of determining whether the receiving market has authority to execute a received order, and executing the order after authority to do so has been determined.

Dependent claims 2-9, 11-14, 16-21 and 23-27, in respectively depending from claims 1, 10, 15 and 22, incorporate all of the features that patentably distinguish their parent claim from Potter, and so each of these dependent claims is also patentable.

A Notice of Allowance is solicited.

The Examiner is invited to call the undersigned if there are any questions or issues to resolve.

Respectfully submitted,

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